

State of Arizona
House of Representatives
Forty-eighth Legislature
Second Regular Session
2008

HOUSE BILL 2822

AN ACT

REPEALING SECTIONS 32-2302, 32-2303, 32-2320 AND 41-3008.07, ARIZONA REVISED STATUTES; AMENDING SECTIONS 3-107, 3-363 AND 32-2301, ARIZONA REVISED STATUTES; AMENDING TITLE 32, CHAPTER 22, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 32-2302; AMENDING SECTIONS 32-2304, 32-2305, 32-2306, 32-2308, 32-2311, 32-2312, 32-2313, 32-2314, 32-2317, 32-2319, 32-2321, 32-2323, 32-2324, 32-2324.01, 32-2325, 32-2327, 32-2329, 36-606 AND 41-1092, ARIZONA REVISED STATUTES; PROVIDING FOR THE DELAYED REPEAL OF TITLE 32, CHAPTER 22, ARIZONA REVISED STATUTES; RELATING TO STRUCTURAL PEST CONTROL.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Repeal

3 Sections 32-2302, 32-2303, 32-2320 and 41-3008.07, Arizona Revised
4 Statutes, are repealed.

5 Sec. 2. Section 3-107, Arizona Revised Statutes, is amended to read:

6 3-107. Organizational and administrative powers and duties of
7 the director

8 A. The director shall:

9 1. Formulate the program and policies of the department and adopt
10 administrative rules to effect its program and policies.

11 2. Ensure coordination and cooperation in the department in order to
12 achieve a unified policy of administering and executing its responsibilities.

13 3. Subject to section 35-149, accept, expend and account for gifts,
14 grants, devises and other contributions of money or property from any public
15 or private source, including the federal government. All contributions shall
16 be included in the annual report under paragraph 6 of this subsection.
17 Monies received under this paragraph shall be deposited, pursuant to sections
18 35-146 and 35-147, in special funds for the purpose specified, which are
19 exempt from section 35-190 relating to lapsing of appropriations.

20 4. Contract and enter into interagency and intergovernmental
21 agreements pursuant to title 11, chapter 7, article 3 with any private party
22 or public agency.

23 5. Administer oaths to witnesses and issue and direct the service of
24 subpoenas requiring witnesses to attend and testify at or requiring the
25 production of evidence in hearings, investigations and other proceedings.

26 6. Not later than September 30 each year issue a report to the
27 governor and the legislature of the department's activities during the
28 preceding fiscal year. The report may recommend statutory changes to improve
29 the department's ability to achieve the purposes and policies established by
30 law. The director shall provide a copy of the report to the Arizona state
31 library, archives and public records.

32 7. Establish, equip and maintain a central office in Phoenix and field
33 offices as the director deems necessary.

34 8. Sign all vouchers to expend money under this title, which shall be
35 paid as other claims against this state out of the appropriations to the
36 department.

37 9. Coordinate agricultural education efforts to foster an
38 understanding of Arizona agriculture and to promote a more efficient
39 cooperation and understanding among agricultural educators, producers,
40 dealers, buyers, mass media and the consuming public to stimulate the
41 production, consumption and marketing of Arizona agricultural products.

1 10. Employ staff and terminate employment for cause as provided by
2 title 41, chapter 4, article 5.

3 11. Conduct hearings on appeals of the portion of plow-up refunds
4 withheld as a penalty pursuant to criteria adopted pursuant to section
5 3-1087, subsection B. The director may adopt rules to implement this
6 paragraph.

7 12. Cooperate with the Arizona-Mexico commission in the governor's
8 office and with researchers at universities in this state to collect data and
9 conduct projects in the United States and Mexico on issues that are within
10 the scope of the department's duties and that relate to quality of life,
11 trade and economic development in this state in a manner that will help the
12 Arizona-Mexico commission to assess and enhance the economic competitiveness
13 of this state and of the Arizona-Mexico region.

14 13. GENERALLY SUPERVISE THE REGULATION OF STRUCTURAL PEST CONTROL
15 PURSUANT TO TITLE 32, CHAPTER 22, INCLUDING THE APPOINTMENT OF ADVISORY
16 COMMITTEES UNDER SECTION 3-106.

17 B. The director may:

18 1. Authorize in writing any qualified officer or employee in the
19 department to perform any act that the director is authorized or required to
20 do by law.

21 2. Construct and operate border inspection stations or other necessary
22 facilities in this state and cooperate by joint agreement with an adjoining
23 state in constructing and operating border inspection stations or other
24 facilities within the boundaries of this state or of the adjoining state.

25 3. Cooperate with agencies of the United States and other states and
26 other agencies of this state and enter into agreements in developing and
27 administering state and federal agricultural programs regarding the use of
28 department officers, inspectors or other resources in this state, in other
29 states or in other countries.

30 4. Cooperate with the office of tourism in distributing Arizona
31 tourist information.

32 5. Enter into compliance agreements with any person, state or
33 regulatory agency. For the purposes of this paragraph, "compliance
34 agreement" means any written agreement or permit between a person and the
35 department for the purpose of enforcing the department's requirements.

36 6. Abate, suppress, control, regulate, seize, quarantine or destroy
37 any agricultural product or foodstuff that is adulterated or contaminated as
38 the result of an accident at a commercial nuclear generating station as
39 defined in section 26-301, paragraph 1. A person owning an agricultural
40 product or foodstuff that has been subject to this paragraph may request a
41 hearing pursuant to title 41, chapter 6, article 10.

42 7. Engage in joint venture activities with businesses and commodity
43 groups that are specifically designed to further the mission of the
44 department, that comply with the constitution and laws of the United States
45 and that do not compete with private enterprise.

1 8. Sell, exchange or otherwise dispose of personal property labeled
2 with the "Arizona grown" trademark. Revenues received pursuant to this
3 paragraph shall be credited to the commodity promotion fund established by
4 section 3-109.02.

5 Sec. 3. Section 3-363, Arizona Revised Statutes, is amended to read:
6 3-363. Rules

7 The director shall adopt rules to regulate pesticides ~~which shall~~ THAT
8 include provisions to:

9 1. Administer and implement this article.

10 2. Prescribe measures to control, monitor, inspect and govern
11 pesticide use.

12 3. Prohibit or restrict pesticide use.

13 4. Restrict the areas in which pesticide use may occur.

14 5. Prescribe minimum qualifications for all persons who engage in
15 pesticide use, including, as appropriate, requirements that the persons have
16 valid licenses, permits or certificates, have adequate training, including
17 continuing education requirements and meet financial responsibility
18 standards.

19 6. Prescribe appropriate record keeping and reporting requirements
20 regarding pesticide use, except that the record keeping and reporting
21 requirements for growers and certified private applicators who apply
22 pesticides shall be equivalent to, but not more stringent than, the
23 requirements prescribed under the federal insecticide, fungicide and
24 rodenticide act (61 Stat. 163) and the food, agriculture, conservation and
25 trade act of 1990 (P.L. 101-624; 104 Stat. 3359).

26 7. Prohibit pesticide use ~~which~~ THAT is inconsistent with the
27 pesticide label as required under the federal insecticide, fungicide and
28 rodenticide act (61 Stat. 163).

29 8. Exempt from regulation under this article pesticide use that is
30 regulated in title 32, chapter 22.

31 9. Issue licenses, permits and certificates for pesticide use, as
32 appropriate, having terms of one or more years.

33 10. Charge and collect the following fees for each permit, license and
34 certification under this article:

35 (a) Not to exceed twenty dollars per year for a grower permit.

36 (b) Not to exceed one hundred dollars per year for a seller permit.

37 (c) Not to exceed one hundred dollars per year for a custom applicator
38 license.

39 (d) Not to exceed fifty dollars per year for a pilot license.

40 (e) Not to exceed fifty dollars per year for a pest control advisor
41 license.

42 (f) Not to exceed twenty-five dollars per year for a piece of
43 equipment used to apply pesticides by a custom applicator.

44 (g) Not to exceed fifty dollars per year for restricted use
45 certification.

11. Establish a nonexclusive list of acts and omissions that constitute serious, nonserious and de minimis violations of this article.

12. Establish a system of administrative penalties and fines for violations of this article and any rules adopted under this article. Under this system:

(a) Violators shall be assessed a number of points for each violation, depending ~~upon~~ ON such factors as:

(i) Potential and actual consequences of the violation on public and worker health and safety and the environment.

(ii) Wrongfulness of the conduct.

(iii) Degree of culpability of the violator.

(iv) Duration of the violation.

(v) Prior violations or citations.

(b) Penalties shall be assessed depending ~~upon~~ ON the number of points accrued by the violator.

Sec. 4. Section 32-2301, Arizona Revised Statutes, is amended to read:

32-2301. Definitions

In this chapter, unless the context otherwise requires:

1. "ACTING DIRECTOR" MEANS THE PERSON APPOINTED PURSUANT TO SECTION 32-2302 TO SERVE AS THE ACTING DIRECTOR OF THE AGENCY.

2. "AGENCY" MEANS THE STRUCTURAL PEST CONTROL AGENCY ESTABLISHED BY SECTION 32-2302.

~~1-~~ 3. "Branch office" means any fixed place of business, other than the primary office, where records are kept, mail is received, statements are rendered, money is collected, requests for service or bids are received or information pertaining to the business of structural pest control is given and from which the use of pesticides and devices is supervised by a ~~certified~~ LICENSED applicator or qualifying party.

~~2-~~ 4. "Business license" means a license that is issued pursuant to this chapter to a person and that entitles that person and the person's employees to engage in the business of structural pest control.

~~3-~~ 5. "Business of structural pest control" means engaging in, offering to engage in, advertising for, soliciting or performing structural pest control, including any of the following:

(a) Identifying infestations or making inspections for the purpose of identifying or attempting to identify infestations of households or other structures and the surrounding area by any of the following:

(i) Public health pests.

(ii) Aquatic pests.

(iii) Household pests.

(iv) Wood-destroying insects.

(v) Pests, including weeds, existing around structures, in ornamental shrubs and trees, on golf courses, along rights-of-way or in lawns and cemeteries.

(vi) Fungi.

1 (b) Making written or oral inspection reports, recommendations,
2 estimates or bids with respect to infestations.

3 (c) The application of pesticides or the making of contracts or
4 submitting of bids for the application of pesticides or the use of devices
5 for the purpose of eliminating, exterminating, controlling or preventing
6 infestations.

7 ~~4. "Commission" means the structural pest control commission~~
8 ~~established by section 32-2302.~~

9 ~~5.~~ 6. "De minimis violation" means a violation that, although
10 undesirable, has no direct or immediate relationship to safety, health or
11 property damage.

12 7. "DEPARTMENT" MEANS THE ARIZONA DEPARTMENT OF AGRICULTURE.

13 ~~6.~~ 8. "Device" means any mechanical, pesticide or electrical
14 apparatus used in conjunction with, in place of or to supplement, disperse or
15 dispense pesticides.

16 ~~7.~~ 9. "Direct supervision" means use of a pesticide under the
17 instructions, control and responsibility of a licensed applicator who is
18 available if needed for consultation or assistance even though the licensed
19 applicator is not physically present at the time and place the pesticide is
20 used.

21 10. "DIRECTOR" MEANS THE DIRECTOR OF THE ARIZONA DEPARTMENT OF
22 AGRICULTURE.

23 11. "DIVISION" MEANS THE ENVIRONMENTAL SERVICES DIVISION OF THE ARIZONA
24 DEPARTMENT OF AGRICULTURE.

25 ~~8.~~ 12. "Final grade treatment" means establishment of vertical
26 barriers at the exterior of foundation walls in stem wall construction or at
27 the exterior of grade beams in monolithic construction.

28 ~~9.~~ 13. "Fungi inspection report" means a written inspection report on
29 a form approved by the ~~commission~~ AGENCY.

30 ~~10.~~ 14. "Household pests" means pests, other than wood-destroying
31 insects, that invade households or other structures, including rodents,
32 vermin and insects.

33 ~~11.~~ 15. "Immediate supervision" means use of a pesticide by an
34 employee acting under the instructions, control and responsibility of a
35 licensed applicator who is within the direct line of sight or within hearing
36 distance of the employee and who is available for consultation or assistance
37 at the time and place the pesticide is used.

38 ~~12.~~ 16. "Initial termite corrective treatment" means the first
39 treatment of any kind performed by a licensee after a treatment made prior to
40 or during construction, excluding a treatment performed by a licensee who has
41 performed the treatment prior to or during construction and is performed
42 under warranty.

43 ~~13.~~ 17. "Inquiry" means information from the public or ~~commission~~
44 AGENCY staff of possible violations of this chapter, or rules adopted
45 pursuant to this chapter.

1 ~~14.~~ 18. "Integrated pest management" means a sustainable approach to
2 managing pests that combines biological, cultural, physical and pesticide
3 tools in a way that minimizes economic, health and environmental risks.

4 ~~15.~~ 19. "License" means an approval granted by the ~~commission~~ AGENCY
5 to act as an applicator or qualifying party or to operate a business of
6 structural pest control in this state.

7 ~~16.~~ 20. "Licensed applicator" means a person who is licensed by the
8 ~~commission~~ AGENCY to apply pesticides in accordance with this chapter.

9 ~~17.~~ 21. "Other structures" includes railroad cars, boats, docks, motor
10 vehicles or airplanes and their contents.

11 ~~18.~~ 22. "Pesticide" means any substance or mixture of substances
12 intended to be used for defoliating plants or for preventing, destroying,
13 repelling or mitigating insects, fungi, bacteria, microbes, weeds, rodents,
14 predatory animals or any form of plant or animal life that is a pest and may
15 infest or be detrimental to vegetation, humans, animals or households or be
16 present in any environment.

17 ~~19.~~ 23. "Prior violation" means any violation for which disciplinary
18 action was taken within a five-year period prior to the date of the violation
19 for which current disciplinary action is sought.

20 ~~20.~~ 24. "Qualifying party" means an individual who is licensed by the
21 ~~commission~~ AGENCY to ensure the supervision and training of all employees of
22 a business licensee in the business of structural pest control.

23 ~~21.~~ 25. "Structural pest control" means controlling public health
24 pests, aquatic pests, household pests, wood-destroying insects, fungi or
25 other pests, including weeds, that exist near or around structures, in
26 ornamental shrubs and trees, on golf courses, along rights-of-way or in lawns
27 or cemeteries and all pesticide application that could be harmful to public
28 health or the environment. Structural pest control does not include
29 pesticide applications used directly in the commercial production of crops
30 and animals if such applications are governed by the Arizona department of
31 agriculture pursuant to title 3, chapter 2, articles 6 and 6.1.

32 ~~22.~~ 26. "Weed" means any plant that grows where it is not wanted.

33 ~~23.~~ 27. "Wood-destroying insect ~~INSPECTION~~ report" means a written
34 inspection report on a form approved by the ~~commission~~ ACTING DIRECTOR that
35 is prepared in connection with the sale or refinancing of real property
36 whether or not the report is used as part of the transaction.

37 ~~24.~~ 28. "Wood-destroying insects" means insects that attack, damage or
38 destroy wood or wood-derivative products.

39 Sec. 5. Title 32, chapter 22, article 1, Arizona Revised Statutes, is
40 amended by adding a new section 32-2302, to read:

41 ~~32-2302.~~ Structural pest control agency; acting director

42 A. THE STRUCTURAL PEST CONTROL AGENCY IS ESTABLISHED.

43 B. THE DIRECTOR OF THE ARIZONA DEPARTMENT OF AGRICULTURE SHALL APPOINT
44 AN OFFICER OR EMPLOYEE OF THE DEPARTMENT TO SERVE AS THE ACTING DIRECTOR OF

1 THE AGENCY, UNDER THE GENERAL SUPERVISION OF THE DIRECTOR AS PROVIDED BY THIS
2 CHAPTER.

3 Sec. 6. Section 32-2304, Arizona Revised Statutes, is amended to read:
4 32-2304. Powers and duties

5 A. The ~~commission~~ ACTING DIRECTOR IS RESPONSIBLE FOR ADMINISTERING
6 THIS CHAPTER, UNDER THE GENERAL SUPERVISION OF THE DIRECTOR, AND shall:

7 1. Adopt rules that are necessary or proper for the administration of
8 this chapter, including administrative provisions, EDUCATION REQUIREMENTS,
9 health and safety provisions and provisions for the use, storage and
10 application of pesticides and devices used in structural pest control.

11 ~~2. Administer and enforce this chapter and rules adopted pursuant to~~
12 ~~this chapter.~~

13 ~~3. Maintain a record of its acts and proceedings, including the~~
14 ~~issuance, refusal, renewal, suspension or revocation of licenses.~~

15 ~~4. At least thirty calendar days before adoption of a rule, form or~~
16 ~~policy, mail a copy of notice of a proposed rule, form or policy adoption,~~
17 ~~including the text of the proposed rule, form or policy, to each business~~
18 ~~licensee who has made a request to the commission, except that if the~~
19 ~~commission finds that adoption of a rule is necessary for immediate~~
20 ~~preservation of the public peace, health and safety and that notice is~~
21 ~~impractical, unnecessary or contrary to public interest it may adopt a rule~~
22 ~~without prior notice. Within thirty calendar days after the adoption of a~~
23 ~~statute by the legislature or approval of a rule by the governor's regulatory~~
24 ~~review council, the commission shall notify all business licensees in~~
25 ~~writing.~~

26 ~~5. Hire inspectors as needed, considering recommendations of the~~
27 ~~executive director.~~

28 ~~6.~~ 2. Notify the business licensee, applicator and qualifying party
29 in writing of any complaint against the business licensee, qualifying party
30 or employee of the business licensee by the close of business on the tenth
31 business day after the day on which the ~~commission~~ ACTING DIRECTOR initiated
32 the complaint.

33 ~~7. Receive and appropriately respond to any inquiry.~~

34 ~~8. Issue subpoenas for the taking of depositions, the production of~~
35 ~~documents and things and the entry on land for inspection and measuring,~~
36 ~~surveying, photographing, testing or sampling the property or any designated~~
37 ~~object or operation on the property relevant to the complaint.~~

38 ~~9. List any complaint, inquiry, issue or matter it plans to discuss at~~
39 ~~a public meeting in the agenda for the meeting.~~

40 ~~10. Make applicator license and qualifying party license test study~~
41 ~~materials available, at the commission's actual costs, to any interested~~
42 ~~person.~~

43 ~~11.~~ 3. Conduct or contract to conduct applicator license and
44 qualifying party license tests at locations throughout this state. If the
45 ~~commission~~ ACTING DIRECTOR contracts for these tests, the contracts may

1 provide for specific examination fees or a reasonable range of fees
2 determined by the ~~commission~~ ACTING DIRECTOR to be paid directly to the
3 contractor by the applicant. The ~~commission~~ ACTING DIRECTOR shall make all
4 efforts to contract with private parties to electronically administer the
5 applicator and qualifying party license tests.

6 ~~12. Refer all cases of termite treatments that are done before or~~
7 ~~during construction and that involve alleged criminal fraud to the criminal~~
8 ~~fraud division of the attorney general's office and refer any case the~~
9 ~~commission determines to contain information relating to a possible felony to~~
10 ~~the proper law enforcement agency.~~

11 ~~13.~~ 4. Maintain a computer system for the benefit and protection of
12 the public that includes the following information on termite treatments that
13 are done before or during construction, initial termite corrective projects,
14 preventative termite treatments and wood-destroying insect inspection
15 reports:

- 16 (a) The name of the individual who performed the work.
- 17 (b) The address or location of the work or project.
- 18 (c) The name of the pest control company.
- 19 (d) The name of the qualifying party.
- 20 (e) The applicator license numbers.
- 21 (f) The nature and date of the work performed.
- 22 (g) Any other information that is required by ~~the commission in its~~
23 ~~rules~~ RULE.

24 ~~14. Establish offices it deems necessary to carry out the purposes of~~
25 ~~this chapter.~~

26 ~~15. Employ an executive director and other permanent or temporary~~
27 ~~personnel it deems necessary to carry out the purposes of this chapter and~~
28 ~~designate their duties.~~

29 ~~16.~~ 5. Investigate violations of this chapter and rules adopted
30 pursuant to this chapter.

31 ~~17.~~ 6. Oversee the approval, content and method of delivery of
32 continuing education courses.

33 ~~18.~~ 7. Deny a license to any person who has had a license revoked for
34 a period of five years from the time of revocation.

35 ~~19.~~ 8. License applicators, qualifying parties and businesses in
36 accordance with this chapter and rules adopted pursuant to this chapter.

37 ~~20. Prepare guidelines for an integrated pest management program for~~
38 ~~structural pest control practices at schools. On or before December 1 of~~
39 ~~each year, the commission shall report on the progress of preparing the~~
40 ~~guidelines to the governor, the president of the senate and the speaker of~~
41 ~~the house of representatives and shall provide a copy of the report to the~~
42 ~~secretary of state and the director of the Arizona state library, archives~~
43 ~~and public records. The guidelines shall include the following:~~

- 1 ~~(a) The identification of pests.~~
2 ~~(b) The establishment of a monitoring and record keeping system for~~
3 ~~regular sampling and assessment of pest populations.~~
4 ~~(c) The determination of the pest population levels that can be~~
5 ~~tolerated based on aesthetic, economic and health concerns and setting action~~
6 ~~thresholds if pest populations or environmental conditions warrant remedial~~
7 ~~action.~~
8 ~~(d) A plan to prevent pest problems through improved sanitation, waste~~
9 ~~management, physical barriers and the modification of habitats that attract~~
10 ~~or harbor pests.~~
11 ~~(e) The reliance on nontoxic, biological, cultural or natural control~~
12 ~~agents.~~
13 ~~(f) The use of pesticides, if necessary, with preference for products~~
14 ~~that are the least harmful to human health and the environment.~~
15 ~~21.~~ 9. Require the payment of a penalty for any late license renewal.
16 ~~22.~~ 10. Require either completion of the continuing education
17 requirement or successful completion of the license examination for failure
18 to renew a license on time.
19 ~~23.~~ 11. Suspend a license if a licensee fails to renew the license
20 within thirty calendar days ~~of~~ AFTER the renewal date.
21 ~~24.~~ 12. Refuse to issue a business license in a name that is not
22 registered with the secretary of state or filed with the Arizona corporation
23 commission.
24 ~~25.~~ 13. Adopt a wood-destroying insect inspection report form for use
25 by business licensees.
26 B. THE DIRECTOR MAY CHARGE TO THE HOLDER OF A BUSINESS LICENSE THE
27 ACTUAL COST OF PROVIDING MAILED COPIES OF RULES, FORMS OR POLICIES THAT ARE
28 PROPOSED FOR ADOPTION AND FOR EDUCATIONAL MATERIALS.
29 C. THE ACTING DIRECTOR SHALL ADMINISTER AND ENFORCE THIS CHAPTER AND
30 THE RULES ADOPTED PURSUANT TO THIS CHAPTER.
31 ~~B.~~ D. The ~~commission~~ ACTING DIRECTOR may:
32 1. Compel attendance of witnesses, administer oaths or affirmations
33 and take testimony concerning all matters coming within ~~it's~~ THE ACTING
34 DIRECTOR'S jurisdiction.
35 2. Require a person who seeks a license pursuant to this chapter to
36 submit to the ~~commission~~ AGENCY a full set of fingerprints and the fees
37 required by section 41-1750. The ~~commission~~ ACTING DIRECTOR shall submit the
38 fingerprints and fees to the department of public safety for the purpose of
39 obtaining a state and federal criminal records check pursuant to section
40 41-1750 and Public Law 92-544. The department of public safety may exchange
41 this fingerprint data with the federal bureau of investigation.
42 3. Enter into intergovernmental agreements.
43 4. With at least twenty-four hours' notice, request specific records
44 from a business licensee, qualifying party or applicator at the person's
45 place of business during normal business hours.

1 5. Deny or revoke a license based on the information in the
2 application or information that the ~~commission~~ ACTING DIRECTOR receives from
3 the criminal background check.

4 6. On a showing of good cause by the business licensee, excuse a
5 failure to timely comply with a records request.

6 ~~7. Charge to the holder of a business license the actual cost of~~
7 ~~providing mailed copies of rules, forms or policies that are proposed for~~
8 ~~adoption.~~

9 ~~8. Hire independent contractors to conduct inspections and take~~
10 ~~pesticide samples, soil samples or any other samples for purposes of testing~~
11 ~~the type and quantity of pesticides that are used in connection with pest~~
12 ~~control treatment.~~

13 ~~9.~~ 7. Issue advisory notices for de minimis violations.

14 ~~10. Notify a business licensee, qualifying party or licensed applicator~~
15 ~~of all requests for review of the business licensee's, qualifying party's or~~
16 ~~licensed applicator's records within ten business days of after the request.~~

17 ~~11.~~ 8. Require inspectors to be licensed applicators in all categories
18 within their scope of work during their probationary period. Inspectors
19 shall attend and complete an investigative training class that is prescribed
20 by the ~~commission within their probationary period~~ ACTING DIRECTOR.

21 ~~12.~~ 9. Investigate alleged violations of all applicable federal and
22 state statutes, ~~and~~ rules ~~adopted~~ or orders ~~issued by the commission~~ or
23 alleged violations of any condition imposed ~~by the commission~~ in connection
24 with a license.

25 ~~13. Provide general technical advice, support and information~~
26 ~~concerning structural pest control to the public and the licensees.~~

27 ~~14.~~ 10. Pursuant to section 32-2329, summarily suspend a license
28 issued under this chapter to protect the health, safety and welfare of the
29 public.

30 ~~15.~~ 11. Issue a corrective work order requiring a licensee to remedy
31 deficiencies in treatment or to comply with this chapter or any rules adopted
32 pursuant to this chapter before or after a formal hearing.

33 ~~16.~~ 12. Do at least one of the following in relation to unlicensed
34 structural pest control business operations:

35 (a) Issue a cease and desist order requiring an unlicensed structural
36 pest control business to immediately cease operations.

37 (b) Except as provided in section 32-2311, subsection ~~C~~ D, impose on
38 an unlicensed structural pest control business a civil penalty of not more
39 than one thousand dollars for the first occurrence and not more than two
40 thousand dollars for the second or subsequent occurrence.

41 ~~17. Refer all cases for formal hearing to the office of administrative~~
42 ~~hearings.~~

43 ~~18.~~ 13. Refuse to issue a business license in a name that is likely to
44 be misleading or to imply any distorted representation about the business.

1 ~~19.~~ 14. Issue a renewable and revocable temporary qualifying party
2 license to a licensed applicator who is a representative of a business
3 licensee if the qualifying party becomes disassociated with the business
4 licensee.

5 ~~20.~~ 15. Provide and conduct classes to train applicators and
6 qualifying parties in preparation for license tests. The ~~commission~~ ACTING
7 DIRECTOR may assess a fee for each class. The ~~commission~~ ACTING DIRECTOR may
8 contract with a commercial enterprise or an accredited institution to conduct
9 the class.

10 ~~21.~~ 16. Provide and conduct continuing education classes quarterly.
11 The ~~commission~~ ACTING DIRECTOR may assess a fee for each credit hour. The
12 ~~commission~~ ACTING DIRECTOR may contract with a commercial enterprise or an
13 accredited institution to conduct the class under the supervision of
14 ~~commission~~ AGENCY staff.

15 ~~22. Appoint a member or employee of the commission to conduct an~~
16 ~~informal settlement conference with a licensee against whom an inquiry is~~
17 ~~received or a complaint is filed.~~

18 ~~23. Prepare a consent order only after either an informal settlement~~
19 ~~conference is conducted pursuant to section 32-2321 or a formal hearing is~~
20 ~~conducted pursuant to title 41, chapter 6, article 10.~~

21 ~~24.~~ 17. Apply to the appropriate court, through the attorney general
22 or county attorney, for an order enjoining any act or practice that
23 constitutes a violation of this chapter or any rule adopted pursuant to this
24 chapter.

25 ~~25. Approve proposed consent orders.~~

26 ~~26. Annually prepare a strategic plan.~~

27 ~~C.~~ E. Each completed form for a termite treatment that is done before
28 or during construction, initial termite corrective treatment project or
29 wood-destroying insect inspection report shall be accompanied by a fee. The
30 initial fee is eight dollars. The ~~commission~~ ACTING DIRECTOR may:

31 1. Adjust the fee upward or downward to a level that is calculated to
32 produce sufficient revenue to carry out the functions prescribed under this
33 section. ~~The commission may~~

34 2. Establish tiered fees according to the means of submission to
35 encourage electronic submission of the termite action registration form. ~~The~~
36 ~~commission may~~

37 3. Assess a penalty of not to exceed one hundred dollars per form for
38 failing to submit the required form or fee, or both, within thirty calendar
39 days.

40 ~~D. The executive director serves at the pleasure of the commission.~~
41 ~~Compensation for the executive director and employees shall be determined~~
42 ~~pursuant to section 38-611.~~

1 ~~E. Subject to the limitations of section 41-2544, the executive~~
2 ~~director may enter into agreements for the purpose of enabling the commission~~
3 ~~to accept payment for fees imposed under this chapter by alternative payment~~
4 ~~methods, including credit cards, charge cards, debit cards and electronic~~
5 ~~funds transfers. Before the monies are transferred to the executive director~~
6 ~~pursuant to section 32-2305, the person collecting the fees shall deduct any~~
7 ~~amount charged or withheld by a company providing the alternative payment~~
8 ~~method under an agreement with the commission.~~

9 F. In the enforcement of this article, the ~~commission~~ ACTING DIRECTOR
10 or any ~~of its~~ duly authorized agents may enter with the authority of a
11 warrant issued by a court of competent jurisdiction at reasonable times on
12 any private or public property on which pesticides are located or are
13 reasonably believed to be located to be used for purposes related to
14 structural pest control. The owner, managing agent or occupant of the
15 property shall permit entry for the purpose of inspecting and investigating
16 conditions relating to the use, storage, application and disposal of
17 pesticides.

18 ~~G. The commission shall not delegate to its staff the powers and~~
19 ~~duties listed under:~~

20 ~~1. Subsection A, paragraphs 1, 2, 12, 14, 18, 19, 20, 23 and 25 of~~
21 ~~this section.~~

22 ~~2. Subsection B, paragraphs 3, 5, 7, 8, 14, 17, 18, 24 and 25 of this~~
23 ~~section.~~

24 Sec. 7. Section 32-2305, Arizona Revised Statutes, is amended to read:

25 32-2305. Structural pest control fund

26 A. A structural pest control ~~commission~~ fund is established.

27 B. Pursuant to sections 35-146 and 35-147, the ~~executive~~ director
28 shall deposit ten per cent of all fees in the state general fund and deposit
29 the remaining ninety per cent in the structural pest control ~~commission~~
30 fund. All monies collected from civil penalties shall be deposited, pursuant
31 to sections 35-146 and 35-147, in the state general fund.

32 C. Monies deposited in the structural pest control ~~commission~~ fund are
33 ~~subject to section 35-143.01~~ EXEMPT FROM THE PROVISIONS OF SECTION 35-190
34 RELATING TO LAPSING OF APPROPRIATIONS.

35 Sec. 8. Section 32-2306, Arizona Revised Statutes, is amended to read:

36 32-2306. Annual and informational reports

37 A. On or before ~~April 30~~ SEPTEMBER 30 of each year, the ~~commission~~
38 ACTING DIRECTOR shall submit a report regarding the number and types of
39 termite treatments as ~~reported on termite action reports~~ MAINTAINED pursuant
40 to section 32-2304, ~~subsections A and C~~ SUBSECTION E. The information shall
41 be categorized according to the general type of treatment used, including
42 pesticide, bait, mechanical, temperature and other methods of treatment. If
43 pesticide treatment is used, the report shall include the active ingredient
44 or trade name of the pesticide used.

1 B. The ~~commission~~ ACTING DIRECTOR shall submit COPIES OF the report to
2 the speaker of the house of representatives, the president of the senate, and
3 the governor, ~~and shall provide a copy of the report to~~ the secretary of
4 state and the director of the Arizona state library, archives and public
5 records.

6 C. If a buyer of real property makes a request to the ~~commission~~
7 ACTING DIRECTOR, the ~~commission~~ ACTING DIRECTOR shall make available to the
8 buyer an information report listing all termite treatments reported ~~to the~~
9 ~~commission~~ for the property. The wood-destroying insect inspection report
10 shall state that a buyer may obtain the information report from the
11 ~~commission~~ ACTING DIRECTOR.

12 Sec. 9. Section 32-2308, Arizona Revised Statutes, is amended to read:
13 32-2308. Joint responsibility for supervised persons

14 A. A business licensee, qualifying party or applicator may be held
15 jointly responsible for the acts or omissions of another person who is under
16 the supervision of the business licensee, qualifying party or applicator if
17 the supervising licensee fails to properly train, equip or supervise the
18 other person or fails to maintain records of proper training, equipping or
19 supervising.

20 B. Failure to timely and fully respond to ~~commission~~ requests BY THE
21 ACTING DIRECTOR for information relating to training, equipping and
22 supervising is a prima facie showing of a failure to properly train, equip or
23 supervise. The supervising licensee has the burden of proof by a
24 preponderance of the evidence that the business licensee, qualifying party or
25 applicator has fulfilled the required duties as prescribed by this chapter,
26 rules adopted pursuant to this chapter or a written order of the ~~commission~~
27 ACTING DIRECTOR.

28 Sec. 10. Section 32-2311, Arizona Revised Statutes, is amended to
29 read:

30 32-2311. Persons not required to be licensed; civil penalties

31 A. This ~~article and articles 1 and 3 of this~~ chapter ~~do~~ DOES not apply
32 to:

33 1. Persons licensed or certified pursuant to title 3, chapter 2,
34 article 6.

35 2. Persons applying pesticides on property that they own and occupy.

36 3. Authorized representatives of any educational institution engaged
37 in research in the study of pest control or a state agency engaged in
38 research or the study of pest control.

39 4. Employees of political subdivisions or their designated agents
40 while performing emergency response or rescue services.

41 5. Persons using a nonrestricted, ready to use disinfectant, sanitizer
42 or deodorizer.

43 6. Except as provided in section 32-2307, persons who are conducting
44 lawn, garden, shrub or tree maintenance and who apply herbicides for the
45 purpose of weed control. This exemption does not apply to:

1 (a) The use of herbicides that are labeled with the words "restricted
2 use" or "danger" and that are not commercially available to the general
3 public.

4 (b) The use of sterilants.

5 (c) Persons who offer weed control as their primary service.

6 (d) Persons who use application equipment that holds more than eight
7 gallons of total mixed liquid herbicide.

8 (e) Persons who use more than twenty-five pounds of a nonliquid
9 herbicide.

10 (f) Persons who do not follow label and labeling directions.

11 7. A utility and the utility's employees if ~~both of the following~~
12 ~~apply:~~

13 ~~(a)~~ pest control services are ~~immediately~~ needed for an employee's
14 health and safety in order for the employee to continue performing work
15 tasks.

16 ~~(b) A qualifying party ensures that employees who conduct pest control~~
17 ~~services are properly trained, supervised and equipped.~~

18 B. AN EMPLOYEE OF A POLITICAL SUBDIVISION WHO ENGAGES IN STRUCTURAL
19 PEST CONTROL:

20 1. IS NOT REQUIRED TO BE LICENSED UNDER SECTION 32-2313 OR 32-2314.

21 2. MUST BE LICENSED AS AN APPLICATOR UNDER SECTION 32-2312, EXCEPT AS
22 PROVIDED BY SUBSECTION A, PARAGRAPH 4 OF THIS SECTION.

23 ~~B.~~ C. A person who is exempt pursuant to subsection A, paragraph 6 of
24 this section shall provide treatment records to each customer on application
25 of herbicides for the purpose of weed control and shall retain records
26 containing the same information provided to customers. For the purposes of
27 this subsection, treatment records shall include all of the following:

28 1. The address of the location of the herbicide application.

29 2. The date of the herbicide application.

30 3. The trade name or common name of the herbicide applied.

31 ~~C.~~ D. If a person is exempt pursuant to subsection A, paragraph 6 of
32 this section but does not comply with subsection ~~B~~ C of this section or if a
33 ~~PERSON IS NOT LICENSED UNDER THIS CHAPTER AND THE~~ person is not exempt
34 pursuant to subsection A, paragraph 6 of this section as a result of doing
35 something prescribed in subsection A, paragraph 6, subdivisions (a) through
36 (f) of this section, the ~~commission~~ ACTING DIRECTOR shall:

37 1. On a first violation, issue a written notice of correction that
38 contains a warning and a copy of this section and that provides full notice
39 of the exemption requirements.

40 2. On a second violation, impose a civil penalty of not more than two
41 hundred fifty dollars.

42 3. On a third or any subsequent violation, impose a civil penalty of
43 not more than five hundred dollars.

1 Sec. 11. Section 32-2312, Arizona Revised Statutes, is amended to
2 read:

3 32-2312. Applicator licenses; application; categories; renewal;
4 inactive licenses

5 A. An application for an applicator license shall be in a form
6 prescribed by the ~~commission~~ ACTING DIRECTOR and accompanied by the
7 prescribed fee. The application shall set forth whether the applicant has
8 ever been convicted of a felony and, if so, the nature of the felony, when
9 and where it was committed and the disposition of the conviction.

10 B. An applicant may apply for a license in any one or a combination of
11 the following categories:

12 1. General and public health pest control, excluding control of
13 wood-destroying insects, wood-destroying insect inspection, antimicrobial
14 pest control, fungi inspection, right-of-way and weed control, fumigation,
15 aquatic pest control and turf and ornamental horticulture pest control.

16 2. Control of wood-destroying insects.

17 3. Right-of-way and weed control.

18 4. Fumigation.

19 5. Turf and ornamental horticulture pest control.

20 6. Antimicrobial pest control.

21 7. Fungi inspection.

22 8. Wood-destroying insect inspection.

23 9. Aquatic pest control.

24 10. Other categories or subcategories based on practice in the industry
25 and established by ~~the commission in its rules~~ RULE.

26 C. An applicator shall pass an examination, given under the direction
27 of the ~~commission~~ ACTING DIRECTOR, with a score of at least seventy-five per
28 cent for each category in which the applicator is seeking licensure.

29 D. An applicator shall be of good moral character. A felony
30 conviction may demonstrate a lack of good moral character.

31 E. Except as provided in subsection F of this section, each employee
32 of a business licensee applying pesticides shall be licensed in all
33 applicable categories within ninety calendar days ~~of~~ AFTER employment.

34 F. An unlicensed employee of a business licensee applying pesticides,
35 other than for the treatment of termites, shall work under the direct
36 supervision of a licensed applicator at all times.

37 G. An unlicensed employee of a business licensee applying pesticides
38 for the treatment of termites shall work under the immediate supervision of a
39 licensed applicator at all times. Only one unlicensed employee at a time may
40 be immediately supervised by a licensed applicator.

41 H. A licensed applicator desiring to work in a category for which the
42 applicator is not licensed shall become licensed in the category within
43 thirty calendar days ~~of~~ AFTER beginning work.

1 I. Each applicator license shall be renewed ~~annually~~ by submitting a
2 form prescribed by the ~~commission~~ ACTING DIRECTOR and paying the prescribed
3 fee.

4 J. An applicator may apply to the ~~commission~~ ACTING DIRECTOR for
5 inactive license status. To reactivate an inactive license that has been
6 inactive for one year or less, an applicator shall apply to the ~~commission~~
7 ACTING DIRECTOR. To reactivate an inactive license that has been inactive
8 for more than one year, an applicator shall apply to the ~~commission~~ ACTING
9 DIRECTOR and shall either successfully complete the applicator license
10 examination or, within twelve months preceding application for reactivation,
11 complete continuing education as required pursuant to section 32-2319.

12 Sec. 12. Section 32-2313, Arizona Revised Statutes, is amended to
13 read:

14 32-2313. Business license; renewal; financial security;
15 definition

16 A. A person who wishes to engage in the business of structural pest
17 control shall first obtain a business license from the ~~commission~~ AGENCY as
18 provided in this article. A person who is not exempt under this article and
19 who advertises for, solicits or holds himself out as willing to engage in the
20 business of structural pest control is presumed to be in the business of
21 structural pest control.

22 B. An application for a business license shall:

23 1. Be in a form prescribed by the ~~commission~~ ACTING DIRECTOR.

24 2. Be accompanied by the prescribed fee.

25 3. Include the name and address of the qualifying party and written
26 documentation of how the qualifying party will be active in the day-to-day
27 management of the business licensee.

28 4. List all owners with more than a ten per cent ownership interest in
29 the company, all corporate officers and members of the board of directors.

30 C. A business licensee shall register each primary and branch office
31 with the ~~commission~~ ACTING DIRECTOR before it opens for business.

32 D. An applicant shall furnish the following to the ~~commission~~ ACTING
33 DIRECTOR:

34 1. Proof of financial responsibility consisting of either a deposit of
35 money, liability insurance, ~~SELF-INSURED RETENTION~~, a surety bond or a
36 certified check protecting persons who may suffer legal damages as a result
37 of the operations of the applicant. The ~~commission~~ ACTING DIRECTOR shall not
38 accept a bond or a liability insurance policy unless issued by an insurer
39 that holds a valid certificate of authority or that is permitted to transact
40 surplus lines insurance in this state. The amount of the deposit, insurance,
41 ~~SELF-INSURED RETENTION~~ or bond shall be at least ~~three~~ FIVE hundred thousand
42 dollars ~~for property damage and public liability insurance, each separately,~~
43 and shall be maintained at not less than that amount at all times during the
44 licensing period. The license of a business licensee ~~who permits the~~
45 ~~security of either property damage or public liability insurance to fall~~

1 ~~below the sum of three~~ WHOSE FINANCIAL SECURITY FALLS BELOW THE MINIMUM FIVE
2 hundred thousand dollars shall be suspended by the ~~commission~~ ACTING DIRECTOR
3 and shall remain suspended until the security meets the minimum financial
4 SECURITY requirement. The ~~property damage and public liability insurance~~
5 FINANCIAL SECURITY need only cover those particular operations in which the
6 licensee is engaged at any time. If the financial security is in the form of
7 liability insurance or a surety bond, the ~~insurer or surety shall provide~~
8 LICENSEE SHALL FURNISH THE ACTING DIRECTOR WITH a certificate of coverage
9 that indicates the coverages and endorsements required by this subsection ON
10 A FORM PRESCRIBED BY THE ACTING DIRECTOR.

11 2. Either of the following if the business licensee performs termite
12 treatments:

13 (a) Proof of a surety bond in the amount of one hundred thousand
14 dollars per business license for actual damages, including reasonable costs
15 of collection suffered by persons as a result of termite damage due to
16 negligent treatment.

17 (b) Proof of a liability insurance policy rider in the amount of one
18 hundred thousand dollars per business license that covers termite damage due
19 to negligent treatment.

20 3. If the business licensee provides wood-destroying insect inspection
21 reports or fungi inspection reports, proof of a surety bond or a liability
22 insurance policy rider in the amount of one hundred thousand dollars per
23 business license for actual damages plus reasonable costs of collection
24 suffered by persons as a result of errors and omissions contained in the
25 reports.

26 4. If an insurance policy provides for a deductible, the deductible
27 amount shall ~~be limited to ten thousand dollars~~ NOT EXCEED ONE PER CENT OF
28 THE TOTAL FINANCIAL SECURITY for each occurrence. If the deductible amount
29 is in excess of ~~ten thousand dollars~~ ONE PER CENT OF THE TOTAL FINANCIAL
30 SECURITY for each occurrence, the business licensee shall provide other
31 security as provided in this subsection or other evidence of financial
32 security for the excess deductible amount.

33 5. If the financial security is in the form of liability insurance, a
34 licensee shall maintain a coverage endorsement for pesticides and herbicides,
35 fumigation, care, custody and control, rights-of-way, wood-destroying insect
36 inspection report errors and omissions, fungi inspection report errors and
37 omissions and pollution transit for its applicable license categories.

38 E. If the PROOF OF financial security ~~is in the form of liability~~
39 ~~insurance~~ ON FILE WITH THE AGENCY EXPIRES, the business license is
40 automatically suspended until a current certificate of insurance or proof of
41 financial responsibility is furnished to the ~~commission~~ ACTING DIRECTOR.

42 F. Each business licensee shall ~~annually~~ renew the business license
43 and each office registration on or before ~~January 1~~ THE EXPIRATION DATE OF
44 THE LICENSE by filing renewal forms prescribed by the ~~commission~~ ACTING
45 DIRECTOR and paying the prescribed renewal fees. If a business licensee

1 fails to renew the business license as required by this subsection, the
2 licensee shall not engage in the business of structural pest control.

3 G. Each branch office of a business licensee shall be supervised by a
4 licensed applicator or qualifying party who is licensed in all categories in
5 which the branch office operates.

6 H. For the purposes of this section, "financial security" means
7 liability insurance, a deposit of cash or certified monies, a surety bond or
8 other equivalent item.

9 Sec. 13. Section 32-2314, Arizona Revised Statutes, is amended to
10 read:

11 32-2314. Qualifying party; license; examination; inactive
12 status; temporary license

13 A. An application for a qualifying party license shall be in a form
14 prescribed by the ~~commission~~ ACTING DIRECTOR and accompanied by the
15 prescribed fee. The application shall set forth whether the applicant has
16 ever been convicted of a felony and, if so, the nature of the felony, when
17 and where it was committed and the disposition of the conviction.

18 B. A qualifying party may apply for a license in any one or a
19 combination of the following categories:

20 1. General and public health pest control, excluding control of
21 wood-destroying insects, wood-destroying insect inspection, antimicrobial
22 pest control, fungi inspection, right-of-way and weed control, fumigation,
23 aquatic pest control and turf and ornamental horticulture pest control.

24 2. Control of wood-destroying insects.

25 3. Right-of-way and weed control.

26 4. Fumigation.

27 5. Turf and ornamental horticulture pest control.

28 6. Antimicrobial pest control.

29 7. Fungi inspection.

30 8. Wood-destroying insect inspection.

31 9. Aquatic pest control.

32 10. Other categories or subcategories based on practice in the industry
33 and established by ~~the commission in its rules~~ RULE.

34 C. An applicant for qualifying party licensure shall:

35 1. Pass an examination, given under the direction of the ~~commission~~
36 ACTING DIRECTOR, with a score of seventy-five per cent or more.

37 2. Present evidence satisfactory to the ~~commission~~ ACTING DIRECTOR
38 that the person has sufficient education or experience in the use of or
39 supervising the use of a pesticide covered by each category for which the
40 person is applying as demonstrated by having had within five years
41 immediately preceding application either:

42 (a) Three thousand verifiable hours of practical experience in the
43 business of structural pest control.

1 (b) Two thousand verifiable hours of practical field experience in the
2 business of structural pest control and have successfully completed at least
3 twelve semester hours or its equivalent in entomology, the eradication or
4 control of weeds, general horticulture, plant pathology or any combination of
5 these subjects directly related to each category for which the person is
6 applying.

7 3. Be of good moral character. A felony conviction may demonstrate a
8 lack of good moral character.

9 D. The examination shall test the qualifying party's knowledge of
10 pests and the use, storage and application of pesticides and other devices
11 used in the eradication of pests within the category for which the person is
12 applying.

13 E. A qualifying party shall have an inactive qualifying party license
14 status if the qualifying party is not currently acting as a qualifying party
15 for a business licensee. To reactivate an inactive license that has been
16 inactive for one year or less, a qualifying party shall apply to the
17 ~~commission~~ ACTING DIRECTOR to qualify a business license. To reactivate an
18 inactive license that has been inactive for more than one year, a qualifying
19 party shall apply to the ~~commission~~ ACTING DIRECTOR to qualify a business
20 license and shall either successfully complete the license examination or,
21 within twelve months preceding application for reactivation, complete
22 continuing education as required pursuant to section 32-2319.

23 F. If the ~~commission~~ ACTING DIRECTOR issues a renewable and revocable
24 temporary qualifying party license pursuant to section 32-2304, the temporary
25 qualifying party ~~qualification~~ LICENSE is valid for sixty calendar days and
26 may be renewed only on approval of the ~~commission~~ ACTING DIRECTOR if good
27 cause is established for delay in the procurement of a qualifying party
28 license. Under the temporary qualifying party license, a business licensee
29 shall otherwise fully comply with the requirements of this chapter and rules
30 adopted pursuant to this chapter.

31 G. A person acting as a qualifying party shall:

32 1. Be active in the management of the business licensee by being
33 present at the business office location each month to review pesticide use,
34 storage and disposal and by ensuring the supervision and training of the
35 employees of the business.

36 2. During normal business hours, be readily available to the licensed
37 applicators and employees of the business licensee.

38 H. A qualifying party shall renew a qualifying party license ~~annually~~
39 by submitting a form prescribed by the ~~commission~~ ACTING DIRECTOR and a fee
40 prescribed by section 32-2317. A qualifying party shall furnish to the
41 ~~commission~~ ACTING DIRECTOR proof of completion of continuing education as
42 prescribed by section 32-2319. Successful completion of the qualifying party
43 license examination for each category may be substituted for the continuing
44 education requirement. Continuing education hours used for renewal of a

1 qualifying party's applicator license may be used for the qualifying party's
2 license renewal.

3 Sec. 14. Section 32-2317, Arizona Revised Statutes, is amended to
4 read:

5 32-2317. Fees

6 A. The ~~commission~~ ACTING DIRECTOR shall establish and collect fees
7 that may include service charges allowed pursuant to section 32-2304 for
8 persons who pay with alternative payment methods, including credit cards,
9 charge cards, debit cards and electronic transfers, but that may not exceed
10 the following amounts:

- 11 1. Qualifying party license application fee, one hundred fifty
12 dollars.
- 13 2. Qualifying party license renewal fee, one hundred fifty dollars.
- 14 3. Qualifying party license renewal fee, inactive status, twenty-five
15 dollars.
- 16 4. Temporary qualifying party license application fee, twenty-five
17 dollars.
- 18 5. Business license application fee, one hundred dollars.
- 19 6. Business license renewal fee, one hundred dollars.
- 20 7. Branch office registration application fee, fifty dollars.
- 21 8. Branch office registration renewal fee, fifty dollars.
- 22 9. Late renewal penalty fee, double the prescribed renewal fee.
- 23 10. Qualifying party license status change, inactive to active, one
24 hundred twenty-five dollars.
- 25 11. Applicator license application, thirty dollars.
- 26 12. Applicator license annual renewal, twenty-five dollars.
- 27 13. Duplicate license identification card, ten dollars.

28 B. The ~~commission~~ AGENCY may charge AND COLLECT additional fees for
29 services that the ~~commission—deems~~ ACTING DIRECTOR CONSIDERS TO BE
30 appropriate to carry out ~~its~~ THE intent and purpose OF THIS CHAPTER. These
31 additional fees shall not exceed the costs of rendering the services.

32 Sec. 15. Section 32-2319, Arizona Revised Statutes, is amended to
33 read:

34 32-2319. Continuing education

35 A. In order to satisfy continuing education requirements, a licensee
36 shall verify attendance at programs of instruction that are overseen and
37 approved by the ~~commission~~ ACTING DIRECTOR and that are designed to augment
38 the proficiency of the licensed applicator or qualifying party relating to
39 structural pest control.

40 B. If one individual holds both an applicator license and a qualifying
41 party license, the completion of a minimum of six hours of continuing
42 education in the preceding year for the applicator license satisfies the
43 continuing education requirements for both the applicator license and
44 qualifying party license.

1 Sec. 16. Section 32-2321, Arizona Revised Statutes, is amended to
2 read:

3 32-2321. Disciplinary action; grounds; procedure; judicial
4 review

5 A. After ~~AN OPPORTUNITY FOR~~ a formal hearing or pursuant to a consent
6 order, the ~~commission~~ **ACTING DIRECTOR** may take any of the following
7 disciplinary actions, in combination or alternatively:

8 1. Revoke a license.

9 2. Suspend a license.

10 3. Refuse to renew a license.

11 4. Impose probation requirements that require a business licensee,
12 licensed applicator or qualifying party to comply with one or more specific
13 provisions of this chapter or rules adopted pursuant to this chapter and that
14 require reporting by or monitoring of the business licensee, licensed
15 applicator or qualifying party.

16 5. Impose a civil penalty in an amount of not more than one thousand
17 dollars for each violation except for grounds prescribed in subsection B,
18 paragraphs 8 and 9 of this section.

19 ~~7-~~ 6. Require a qualifying party to report to the ~~commission~~ **ACTING**
20 **DIRECTOR** the qualifying party's role in the management of a business license.

21 ~~6-~~ 7. Issue an administrative warning.

22 B. The following acts are grounds for disciplinary action:

23 1. Violating this chapter, rules adopted pursuant to this chapter or a
24 written order of the ~~commission~~ **ACTING DIRECTOR**.

25 2. Making false or fraudulent records or reports.

26 3. Misrepresenting a material fact in obtaining a license.

27 4. Applying pesticides in a manner that is inconsistent with the label
28 requirements of the pesticide or that may cause undue harm to the public.

29 5. Misuse of a pesticide if the misuse is due to training received or
30 not received or lack of appropriate supervision. Proper training includes
31 training to read and understand the label and labeling and to understand the
32 proper use of application equipment. Proper supervision includes oversight
33 of applicators to ensure general compliance with the label, labeling and all
34 applicable laws.

35 6. Authorizing, directing or abetting the publication, advertisement,
36 distribution or circulation of any false statement or material
37 misrepresentation concerning a business of structural pest control.

38 7. Conviction of a felony or misdemeanor arising from or in connection
39 with a license issued pursuant to this chapter after issuance of the license.

40 8. Conviction of a felony.

41 9. Having had a license, or the equivalent, to apply pesticides or
42 engage in the business of structural pest control suspended or revoked in
43 another jurisdiction for cause.

1 10. Making a fraudulent statement or an intentional material
2 misrepresentation in connection with a wood treatment proposal or a
3 wood-destroying insect inspection report.

4 11. ~~Repeated~~ THREE OR MORE de minimis violations of this chapter or
5 rules adopted under this chapter.

6 12. Failure to provide the ~~commission~~ ACTING DIRECTOR with a current
7 certificate of insurance or proof of financial responsibility.

8 13. Failure to establish a complete vertical barrier at the exterior of
9 foundation walls in stem wall construction or exterior of grade beams in
10 monolithic construction within twelve months of the original treatment made
11 before or during construction.

12 14. Immediately supervising more than one unlicensed applicator at a
13 time.

14 15. Failure to make and maintain true and accurate records of
15 treatments performed, including those performed under warranty or guarantee,
16 for at least three years from date of treatment except any record of a
17 termite treatment, a wood-destroying insect inspection report or a fungi
18 inspection report, which shall be made and maintained for at least five years
19 from the date of treatment or inspection.

20 16. Failure to make treatment records available within three business
21 days on request of the property owner, the property owner's authorized agent
22 or a ~~commission~~ representative OF THE AGENCY.

23 C. Except as provided in section 32-2329, the ~~commission~~ ACTING
24 DIRECTOR may proceed against a business licensee pursuant to subsection A,
25 paragraphs 1 through 5 of this section only if, after AN OPPORTUNITY FOR a
26 hearing, it has been shown that any of the following applies:

27 1. The business licensee has committed a prior violation of the same
28 type, including any violation by any employee of the business licensee.

29 2. The business licensee failed to follow a written order of the
30 ~~commission~~ ACTING DIRECTOR directing it to correct a deficiency or problem
31 within the time specified.

32 3. The business licensee has knowingly assumed operations for a
33 business licensee whose license has been revoked and during the first three
34 years after revocation allows the former licensee to play an active role in
35 company policy, decisions, sales or supervision of employees.

36 4. The business licensee is convicted of a felony.

37 5. The business licensee is determined by the ~~commission~~ ACTING
38 DIRECTOR to have committed a violation in connection with a treatment before
39 or during construction.

40 6. The business licensee changes its name or majority ownership of the
41 business and fails to:

42 (a) Report to the ~~commission~~ ACTING DIRECTOR within thirty calendar
43 days the status of all warranties issued by the licensee.

44 (b) Notify within thirty calendar days all persons who hold warranties
45 issued by the licensee regarding the change.

1 7. The business licensee fails to provide written notice immediately
2 following a pest control treatment in or around residential structures of
3 four or fewer units to the person requesting the treatment or to the person's
4 designated agent. The notice shall include the specific pesticide by trade
5 name used in the treatment.

6 8. The business licensee performing pest control treatments on an
7 ongoing basis to locations other than residential structures of four or fewer
8 units fails to provide written notice to the person who requested the
9 treatments or the person's designated agent. Notice shall be given before
10 the first application of the pesticide and when new or additional pesticides
11 are used or immediately after each treatment.

12 9. If the treatments are performed in the interior of residential
13 units, the licensee fails to leave a notice in the interior of each treated
14 unit immediately after each treatment. The notice shall include the
15 pesticide by trade name and any other information as required by the
16 pesticide label or local ordinance.

17 10. A statement of precaution does not accompany each notification of
18 treatment required in paragraphs 7, 8 and 9 of this subsection. Each
19 statement of precaution shall be printed conspicuously, in not less than
20 eight point type, and shall include the words:

21 Warning--pesticides can be harmful. Keep children and
22 pets away from pesticide applications until dry, dissipated or
23 aerated. For more information contact [business license name
24 and business license number] at [telephone number].

25 11. The business licensee fails within thirty calendar days ~~of~~ AFTER
26 completion of a termite treatment that is done before or during construction,
27 an initial termite corrective treatment project or a wood-destroying insect
28 inspection report, ~~to~~ to file with the ~~commission~~ AGENCY, in a form approved by
29 the ~~commission~~ ACTING DIRECTOR, all data required by the ~~commission~~ ACTING
30 DIRECTOR. The data shall include:

- 31 (a) The name of the individual who performed the work.
32 (b) The address or location of the work or project.
33 (c) The type and the date of the work.
34 (d) The name of the business licensee.
35 (e) The name of the qualifying party.
36 (f) The applicator's license number.
37 (g) Any other information required by ~~the commission in its rules~~
38 RULE.

39 12. The business licensee, within twelve months ~~of~~ AFTER completion of
40 a termite treatment that is done before or during construction, fails either
41 to file a supplemental termite action report in a form provided by the
42 ~~commission~~ ACTING DIRECTOR that indicates the completion of the final grade
43 treatment or to report in writing why the treatment has not been completed
44 and when it will be completed.

1 D. Nothing in subsection C, paragraph 3 of this section shall be
2 deemed to prohibit a business licensee from directly purchasing accounts from
3 a licensee whose license has been revoked if the purchase is made within such
4 time after the revocation as the ~~commission~~ ACTING DIRECTOR by rule may
5 establish.

6 ~~E. Before taking any action pursuant to this section, the commission~~
7 ~~shall notify in writing interested persons and the licensee before the date~~
8 ~~of the hearing pursuant to title 41, chapter 6, article 10 either personally~~
9 ~~or by certified mail at the last address known to the commission. The~~
10 ~~written notice shall contain the nature of the charge or charges against the~~
11 ~~licensee and the time and place of the hearing before the commission on the~~
12 ~~charges.~~

13 ~~F.~~ E. A license may be suspended without a hearing as prescribed in
14 section 32-2329 or if its holder fails within thirty calendar days to:

- 15 1. Pay renewal fees.
- 16 2. Pay civil penalties.
- 17 3. Demonstrate the completion of required continuing education.

18 ~~G.~~ F. The holder of a license suspended under subsection ~~F~~ E of this
19 section must apply to the ~~commission~~ ACTING DIRECTOR for reinstatement.

20 ~~H.~~ G. Licenses suspended under subsection ~~F~~ E of this section are
21 automatically revoked without a hearing after one year of suspension.
22 Licenses revoked under this section are not subject to section 32-2304,
23 subsection A, paragraph ~~18~~ 7.

24 ~~I.~~ H. All complaints shall be in writing.

25 ~~J. If the commission appoints a member or employee of the commission~~
26 ~~to conduct an informal settlement conference with the complaining party~~
27 ~~pursuant to section 32-2304, the purpose of the informal settlement~~
28 ~~conference is to reach agreement as to the disposition of all or a portion of~~
29 ~~the complaint, including any agreement providing for repairing or rectifying~~
30 ~~the conditions specified in the complaint. The settlement conference shall~~
31 ~~be conducted informally and the rules of evidence do not apply. The~~
32 ~~settlement conference shall not be recorded. Participants in the settlement~~
33 ~~conference may ask questions of the complainant and may review any materials~~
34 ~~or reports compiled by the commission with respect to the complaint.~~

35 ~~K. If the commission prepares a consent order pursuant to section~~
36 ~~32-2304, after either an informal settlement conference conducted pursuant to~~
37 ~~subsection J of this section or a formal hearing by the commission conducted~~
38 ~~pursuant to title 41, chapter 6, article 10, the consent order shall only set~~
39 ~~forth the general nature of the inquiry or complaint, the specific action to~~
40 ~~be taken by the licensee or business licensee, the penalty, if any, and the~~
41 ~~time for compliance, if any, for any corrective action to be taken.~~

42 ~~L.~~ I. Except as provided in section 41-1092.08, subsection H, final
43 decisions of the ~~commission~~ ACTING DIRECTOR are subject to judicial review
44 pursuant to title 12, chapter 7, article 6.

1 ~~M.~~ J. The ~~commission~~ ACTING DIRECTOR shall consider only an inquiry
2 received or complaint filed within five years ~~of~~ AFTER the date of the
3 alleged act or omission.

4 ~~N.~~ K. The ~~commission~~ ACTING DIRECTOR may issue an advisory notice
5 stating de minimis violations of statutes or rules that carry no penalty,
6 unless the person subject to this chapter wilfully and repeatedly violates
7 the statute or rule. For wilful and repeated violations, the ~~commission~~
8 ACTING DIRECTOR may take disciplinary action against the person for a
9 violation.

10 ~~O. If the commission finds a violation or the commission enters into a~~
11 ~~consent agreement, the commission:~~

12 ~~1. Shall not delete the record of the complaint for at least five~~
13 ~~years following the filing of the complaint.~~

14 ~~2. Shall include information from the inquiry in the record of~~
15 ~~complaint. If no violation is found, the information from the inquiry shall~~
16 ~~be deleted.~~

17 ~~P.~~ L. Only this chapter applies to, regulates and determines all
18 requirements regarding licensure, licensure fees, testing and education
19 related to structural pest control in this state. Only this chapter applies
20 to, regulates and determines all requirements regarding the business of
21 structural pest control, including the application or notification of use or
22 disposal of pesticides for structural pest control in this state.

23 ~~Q.~~ M. For purposes of filing or submitting all documents or fees
24 required under this chapter, service is considered complete if postmarked on
25 the proper date and delivered by first class mail or a higher class.

26 Sec. 17. Section 32-2323, Arizona Revised Statutes, is amended to
27 read:

28 32-2323. Wood-destroying insects; treatment proposal;
29 registration form; fee

30 A. A business licensee shall not commence work on a contract or sign,
31 issue or deliver any documents expressing an opinion or making a statement
32 relating to the presence or absence of wood-destroying insects in a structure
33 until an inspection is made.

34 B. Only an applicator OR QUALIFYING PARTY licensed in the categories
35 of wood-destroying insect control and wood-destroying insect inspection shall
36 prepare a treatment proposal on a form approved by the ~~commission~~ ACTING
37 DIRECTOR and shall deliver a copy of the treatment proposal to the person
38 requesting the proposal, or the person's designated agent, before beginning
39 treatment. The treatment proposal shall include the following information:

- 40 1. The address of the property to be treated.
41 2. A statement describing that the work is preventative or corrective.
42 3. A statement describing the evidence of infestation or damage.
43 4. A diagrammatic description showing the nature and location of
44 evidence of infestation or damage, or both, if applicable.

1 5. A statement describing the treatment or repair method, including
2 the name of the pesticide, agent or device to be used and a diagrammatic
3 description showing where the treatment or repair will be rendered.

4 6. The price for the work.

5 7. The terms for the service agreement provided by the business
6 licensee.

7 8. The signature and license number of the person who made the
8 inspection of the structure to be treated.

9 C. A licensee shall also give to the person requesting a proposal a
10 written recommendation that verifies a particular problem and, in addition to
11 the licensee's recommendation for treatment, shall advise the person of
12 alternative treatments and methods, including integrated pest management
13 methods to alleviate the problem.

14 D. A treatment proposal shall not be in the same form or be construed
15 as a wood-destroying insect inspection report. A treatment proposal that
16 does not identify infestation by wood-destroying insects is not a binding
17 statement as to the presence or absence of wood-destroying insects.

18 E. A treatment proposal shall be prepared by a licensed applicator ~~OR~~
19 ~~QUALIFYING PARTY~~ who has received at least five hours of instruction from the
20 ~~commission~~ AGENCY or an in-house education program of a business licensee on
21 the subject of wood-destroying insect inspections. An examination on the
22 instruction is not required. The business licensee shall keep a record of
23 completion of the training and shall make the record available on the
24 ~~commission's~~ ACTING DIRECTOR'S request.

25 F. If a business licensee performs a treatment pursuant to a treatment
26 proposal, the business licensee shall maintain for five years a record of the
27 treatment and the name and quantity of the pesticide used.

28 G. Within thirty calendar days after completion of a termite treatment
29 or on the next business day after the thirty calendar days, a business
30 licensee shall file with the ~~commission~~ AGENCY in a form or format approved
31 by the ~~commission~~ ACTING DIRECTOR a complete and accurate termite action
32 registration form and a fee as prescribed by the ~~commission~~ ACTING DIRECTOR.
33 The termite action registration form shall include information prescribed in
34 section 32-2321, subsection C, paragraph 11 and this section. This
35 subsection only applies to the following:

36 1. Any treatments done before or during construction, including final
37 grade treatments.

38 2. The first preventative or corrective termite treatment by a
39 business licensee to a site. If the business licensee who performed this
40 termite treatment performed the before or during construction treatment at
41 the same site and filed a termite action report form with the ~~commission~~
42 AGENCY documenting the before or during construction treatment, the business
43 licensee is exempt from this paragraph.

44 3. A wood-destroying insect inspection report.

1 Sec. 18. Section 32-2324, Arizona Revised Statutes, is amended to
2 read:

3 32-2324. Wood-destroying insect inspection reports

4 A. Wood-destroying insect inspection reports may only be completed by
5 an applicator **OR QUALIFYING PARTY** who is licensed in the categories of
6 control of wood-destroying insects and wood-destroying insect inspection and
7 who has received at least five hours of instruction from the ~~commission~~
8 **AGENCY OR THE FORMER STRUCTURAL PEST CONTROL COMMISSION** or an in-house
9 education program of a business licensee on the subject of wood-destroying
10 insect inspection reports. An examination on the instruction is not
11 required. The business licensee shall keep a record of completion of the
12 training and shall make the record available on the ~~commission's~~ **ACTING**
13 **DIRECTOR'S** request.

14 B. Wood-destroying insect inspection reports shall be on file in the
15 office of the business licensee within seven calendar days after the
16 completion of an inspection. The business licensee shall retain a copy of
17 all completed wood-destroying insect inspection reports for five years and
18 make the reports available on the ~~commission's~~ **ACTING DIRECTOR'S** request.

19 C. Wood-destroying insect inspection reports are evidence of the
20 existence or absence of wood-destroying insects that were visible and
21 accessible to an inspector on the date the inspection was made. A business
22 licensee remains responsible for the accuracy of the inspection and the
23 report as evidence of the presence or absence of infestation on the date of
24 inspection, except that a wood-destroying insect inspection report shall not
25 be construed as a guarantee as to the presence or absence of wood-destroying
26 insects in a structure after the date of inspection.

27 Sec. 19. Section 32-2324.01, Arizona Revised Statutes, is amended to
28 read:

29 32-2324.01. Fungi inspection reports

30 A. Fungi inspection reports may only be completed by a licensed
31 applicator **OR QUALIFYING PARTY** who is licensed in the fungi category and who
32 has received at least eight hours of instruction from the ~~commission~~ **AGENCY**
33 **OR THE FORMER STRUCTURAL PEST CONTROL COMMISSION** or an in-house education
34 program of a business licensee on the subject of fungi inspection and
35 inspection reports. An examination on the instruction is not required. The
36 business licensee shall keep a record of the completion of the training and
37 shall make the record available on the ~~commission's~~ **ACTING DIRECTOR'S**
38 request.

39 B. Fungi inspection reports shall be on file in the office of the
40 business licensee within seven calendar days after the completion of an
41 inspection. The business licensee shall retain a copy of all completed fungi
42 inspection reports for five years and make the reports available on the
43 ~~commission's~~ **ACTING DIRECTOR'S** request.

1 C. Fungi inspection reports are evidence of the existence or absence
2 of fungi that was visible and accessible to an inspector on the date the
3 inspection was made. A business licensee remains responsible for the
4 accuracy of the inspection and the report as evidence of the presence or
5 absence of fungi on the date of inspection, except that a fungi inspection
6 report shall not be construed as a guarantee as to the presence or absence of
7 fungi in a structure after the date of inspection.

8 ~~D. Licensees who are licensed in the wood destroying organism category~~
9 ~~by September 18, 2003, are permitted to perform the business of structural~~
10 ~~pest control in the fungi category until June 30, 2004. After that date, any~~
11 ~~person performing a fungi inspection shall be licensed in the fungi category.~~

12 E. D. The ~~commission~~ ACTING DIRECTOR shall approve a fungi inspection
13 report FORM for use in fungi inspections.

14 Sec. 20. Section 32-2325, Arizona Revised Statutes, is amended to
15 read:

16 32-2325. Unlawful acts

17 A person shall not:

18 1. Engage in the business of structural pest control without holding a
19 business license issued pursuant to this chapter.

20 2. Engage in the business of structural pest control in any category
21 without a qualifying party licensed in that category.

22 3. Operate a branch office without employing a licensed applicator or
23 qualifying party under whose direct supervision pesticide applications are
24 made out of that office.

25 4. Apply pesticides in any category other than the control of
26 wood-destroying insects unless the person is an applicator OR QUALIFYING
27 PARTY licensed in that category pursuant to this chapter or applies the
28 pesticides under the direct supervision of an applicator OR QUALIFYING PARTY
29 licensed in that category pursuant to this chapter.

30 5. Apply pesticides for the control of wood-destroying insects unless
31 both of the following apply:

32 (a) The person is an applicator OR QUALIFYING PARTY licensed in that
33 category pursuant to this chapter or the person applies the pesticides under
34 the immediate supervision of a licensed applicator.

35 (b) The person has received at least five hours of instruction from
36 the ~~commission~~ AGENCY OR THE FORMER STRUCTURAL PEST CONTROL COMMISSION or an
37 in-house education program of a business licensee on the subject of control
38 of wood-destroying insects that is appropriate for the specific type of
39 application performed. An examination on the instruction is not required. A
40 business licensee shall keep a record of completion of the training and shall
41 make it available on the ~~commission's~~ ACTING DIRECTOR'S request.

42 6. Make recommendations regarding structural pest control unless the
43 person is a licensed applicator OR QUALIFYING PARTY.

1 7. Deny to ~~a commission~~ AN AUTHORIZED inspector the right to be
2 present on a jobsite in connection with a contemporaneous pest control
3 treatment for the purpose of taking samples, including pesticide samples and
4 soil samples.

5 Sec. 21. Section 32-2327, Arizona Revised Statutes, is amended to
6 read:

7 32-2327. Injunctive relief

8 In addition to all other remedies, the ~~commission~~ ACTING DIRECTOR,
9 either through the attorney general or the county attorney, may apply to the
10 appropriate court for an order enjoining any act or practice ~~which~~ THAT
11 appears to constitute a violation of this chapter or rules adopted pursuant
12 to this chapter. On a proper showing, a temporary restraining order, a
13 preliminary injunction or a permanent injunction shall be granted without
14 bond.

15 Sec. 22. Section 32-2329, Arizona Revised Statutes, is amended to
16 read:

17 32-2329. Summary suspension

18 ~~At a public meeting,~~ The ~~commission~~ ACTING DIRECTOR may summarily
19 suspend, without a formal hearing, any license issued ~~by the commission~~
20 PURSUANT TO THIS CHAPTER if the ~~commission deems it~~ ACTING DIRECTOR CONSIDERS
21 IT TO BE necessary to protect the health, safety and welfare of the public.
22 ~~A summarily suspended license remains suspended until the next meeting of the~~
23 ~~commission. The commission may remove a summary suspension or continue a~~
24 ~~summary suspension after a review at a commission meeting or may revoke a~~
25 ~~license as provided in section 32-2321.~~

26 Sec. 23. Section 36-606, Arizona Revised Statutes, is amended to read:

27 36-606. Pesticide illness; medical education; reports

28 A. The director of the department of health services shall develop and
29 implement, in cooperation with rural health clinics, county health
30 departments, state and local medical associations, poison control centers and
31 other appropriate health care professionals, a system for reporting and
32 preventing pesticide provoked illnesses. This program shall include:

33 1. Medical education programs to alert health care professionals to
34 the symptoms, diagnosis, treatment and reporting of pesticide provoked
35 illnesses.

36 2. A statewide reporting network, which shall:

37 (a) Require health care professionals and poison control centers to
38 file incident reports of an illness ~~which~~ THAT they reasonably believe, based
39 on professional judgment, to be caused by or related to documented exposure
40 to a pesticide.

41 (b) Catalogue and retrieve data regarding pesticide poisoning for use
42 in worker and public health education programs to prevent pesticide
43 poisoning.

1 B. The health care professional or poison control center required to
2 file an incident report required pursuant to subsection A, paragraph 2,
3 subdivision (a), shall specifically indicate in the incident report the
4 reason for believing that the illness is caused by or related to documented
5 exposure to a pesticide and shall specify if the illness is caused by the
6 documented exposure or is related to the documented exposure. All incident
7 reports shall be filed with the director. The director shall provide to the
8 Arizona department of agriculture all records, reports and information of all
9 illnesses resulting from documented exposure to agriculture pesticides and
10 shall provide to the structural pest control ~~commission~~ AGENCY all records,
11 reports and information of all illnesses resulting from documented exposure
12 to structural pesticides.

13 Sec. 24. Section 41-1092, Arizona Revised Statutes, is amended to
14 read:

15 41-1092. Definitions

16 In this article, unless the context otherwise requires:

17 1. "Administrative law judge" means an individual or an agency head,
18 board or commission that sits as an administrative law judge, that conducts
19 administrative hearings in a contested case or an appealable agency action
20 and that makes decisions regarding the contested case or appealable agency
21 action.

22 2. "Administrative law judge decision" means the findings of fact,
23 conclusions of law and recommendations or decisions issued by an
24 administrative law judge.

25 3. "Appealable agency action" means an action that determines the
26 legal rights, duties or privileges of a party and that is not a contested
27 case. Appealable agency actions do not include interim orders by
28 self-supporting regulatory boards or rules, orders, standards or statements
29 of policy of general application issued by an administrative agency to
30 implement, interpret or make specific the legislation enforced or
31 administered by it, nor does it mean or include rules concerning the internal
32 management of the agency that do not affect private rights or interests. For
33 the purposes of this paragraph, administrative hearing does not include a
34 public hearing held for the purpose of receiving public comment on a proposed
35 agency action.

36 4. "Director" means the director of the office of administrative
37 hearings.

38 5. "Final administrative decision" means a decision by an agency that
39 is subject to judicial review pursuant to title 12, chapter 7, article 6.

40 6. "Office" means the office of administrative hearings.

41 7. "Self-supporting regulatory board" means any one of the following:

42 (a) The ARIZONA state board of accountancy.

43 (b) The state board of appraisal.

44 (c) The board of barbers.

45 (d) The board of behavioral health examiners.

- 1 (e) The Arizona state boxing commission.
- 2 (f) The state board of chiropractic examiners.
- 3 (g) The board of cosmetology.
- 4 (h) The state board of dental examiners.
- 5 (i) The state board of funeral directors and embalmers.
- 6 (j) The Arizona game and fish commission.
- 7 (k) The board of homeopathic medical examiners.
- 8 (l) The Arizona medical board.
- 9 (m) The naturopathic physicians board of medical examiners.
- 10 (n) The state board of nursing.
- 11 (o) The board of examiners of nursing care institution administrators
- 12 and adult care home managers.
- 13 (p) The board of occupational therapy examiners.
- 14 (q) The state board of dispensing opticians.
- 15 (r) The state board of optometry.
- 16 (s) The Arizona board of osteopathic examiners in medicine and
- 17 surgery.
- 18 (t) The Arizona peace officer standards and training board.
- 19 (u) The Arizona state board of pharmacy.
- 20 (v) The board of physical therapy examiners.
- 21 (w) The state board of podiatry examiners.
- 22 (x) The state board for private postsecondary education.
- 23 (y) The state board of psychologist examiners.
- 24 (z) The board of respiratory care examiners.
- 25 (aa) The structural pest control ~~commission~~ AGENCY.
- 26 (bb) The state board of technical registration.
- 27 (cc) The Arizona state veterinary medical examining board.
- 28 (dd) The acupuncture board of examiners.
- 29 (ee) The Arizona regulatory board of physician assistants.
- 30 (ff) The board of athletic training.
- 31 (gg) The board of massage therapy.

32 Sec. 25. Reorganizing and restructuring structural pest control
33 regulation; advisory committee; transition
34 committee; report

35 A. The acting director of the structural pest control agency shall
36 evaluate the necessity and advisability of reorganizing and restructuring the
37 regulation of the structural pest control industry in this state.

38 B. Pursuant to section 3-106, Arizona Revised Statutes, the director
39 of the Arizona department of agriculture:

40 1. Shall appoint and consult with a structural pest control advisory
41 committee for counsel and recommendations relating to the evaluation and the
42 report required pursuant to subsection C of this section.

1 2. May appoint a separate transition advisory committee to consider,
2 assist and make recommendations to the acting director of the structural pest
3 control agency relating to issues arising in respect of any transition to a
4 new organization or structure of this state's regulation of the structural
5 pest control industry.

6 C. On or before November 15, 2009, the acting director shall:

7 1. Issue a report of findings and recommendations.

8 2. Submit copies of the report to the governor, the president of the
9 senate, the speaker of the house of representatives, the Arizona state
10 library, archives and public records, the secretary of state and any other
11 person requesting a copy.

12 Sec. 26. Succession

13 A. As provided by this act, the structural pest control agency
14 succeeds to the authority, powers, duties and responsibilities of the
15 structural pest control commission.

16 B. This act does not alter the effect of any action or impair the
17 valid obligations of the structural pest control commission taken before the
18 effective date of this act.

19 C. Administrative rules and orders adopted by the structural pest
20 control commission continue in effect until superseded by administrative
21 action by the structural pest control agency.

22 D. All administrative matters, contracts and judicial and
23 quasi-judicial actions, whether completed, pending or in process, of the
24 structural pest control commission on the effective date of the act are
25 transferred to and retain the same status with the structural pest control
26 agency.

27 E. All certificates, licenses, registrations, permits and other
28 indicia of qualification and authority that were issued by the structural
29 pest control commission retain their validity for the duration of their terms
30 of validity as provided by law.

31 F. All equipment, records, furnishings and other property, all data
32 and investigative findings and all appropriated monies that remain unexpended
33 and unencumbered on the effective date of this act of the structural pest
34 control commission are transferred to the structural pest control agency.

35 G. All personnel who are under the state personnel system and employed
36 by the structural pest control commission are transferred to comparable
37 positions and pay classification in the structural pest control agency on the
38 effective date of this act.

39 Sec. 27. Delayed repeal

40 Title 32, chapter 22, Arizona Revised Statutes, is repealed from and
41 after December 31, 2010.

42 Sec. 28. Emergency

43 This act is an emergency measure that is necessary to preserve the
44 public peace, health or safety and is operative immediately as provided by
45 law.